

Washington State Department of Transportation's Proposed Federal Transit Administration Triennium Disadvantaged Business Enterprise Goal and Methodology

The Washington State Department of Transportation (WSDOT) submits this Disadvantaged Business Enterprise (DBE) goal and methodology to U.S. Department of Transportation's (USDOT's) Federal Transit Administration (FTA) for review and approval pursuant to 49 Code of Federal Regulation (CFR) Part 26.45. The goal and methodology establishes WSDOT's overall DBE goal for FTA-assisted contracts that WSDOT anticipates awarding in Federal Fiscal Years (FFYs) 2014, 2015, and 2016.

To establish its overall DBE goal, WSDOT closely followed federal regulations, including the two-step goal-setting methodology set forth in 49 Code of Federal Regulations (CFR) Part 26.45. WSDOT determined a "step one" base figure for its overall DBE goal using information from the Washington State Office of Minority and Women's Business Enterprises' (OMWBE's) DBE Directory as well as from Census Bureau Data. WSDOT determined whether a "step two" adjustment was needed to the base figure using information from a disparity study that WSDOT commissioned from BBC Research & Consulting (BBC), a nationally recognized economic consulting firm.

Step 1. Determining a Base Figure – 49 CFR Part 26.45(c)

WSDOT projects that it will receive approximately \$73,190,884.26 in FTA financial assistance during FFYs 2014, 2015, and 2016. These projections are based on the grants and financial assistance that the WSDOT Public Transportation Division (PTD) received during FFYs 2012 and 2013 (\$34,011,822.84) and that the Washington State Ferries Division (WSF) received during FFYs 2010 and 2011 (\$14,782,101). Because PTD and WSF provided grant and financial assistance information for two year periods, WSDOT multiplied those values by one and a half (1.5) to determine an approximate value of FTA financial assistance for FFYs 2014, 2015 and 2016 (i.e., $14,782,101.00 + \$34,011,822.84 = \$48,793,923.84$, which was then multiplied by 1.5 for a result of \$73,190,884.26).

Per 49 CFR § 26.45(b), the "triennium goal must be based on demonstrable evidence of the availability of ready, willing and able DBEs relative to all businesses ready, willing and able to participate on your DOT-assisted contract..." WSDOT began the DBE goal-setting process by determining a base figure for the relative availability of DBEs. WSDOT made that determination by examining projects that included FTA financial assistance that were let in previous years. Each project was evaluated and assigned North American Industry Classification System (NAICS) codes. WSDOT then projected the contract dollars that it will award as part of FTA-assisted contracts during FFYs 2014, 2015, and 2016 in each relevant NAICS code (based on the method described above). Figure 1 presents those projections.

Figure 1. Projections of FTA financial assistance for FFYs 2014, 2015, and 2016 for relevant NAICS codes

NAICS Code	Total Triennium Projection
236220 - Addition, alteration and renovation general contractors, commercial and institutional building	\$4,920,000.00
236220 - Bus Shelter Construction	\$202,195.50
236220 - Commercially Building Construction	\$740,569.50
336390 - Racks (e.g., bicycle, luggage, ski, tire), automotive, truck, and buses manufacturing	\$21,000.00
423110 - Sport Utility Vehicle Merchant Wholesaler	\$45,600.00
423860 - Transportation Equipment and Supplies (except marine pleasure craft, motor vehicles) Merchant Wholesalers	\$456,303.00
485113 - Commuter Bus Operations	\$475,282.50
485210 - Interurban Bus Line Operation	\$5,269,825.26
485210 - Rural Bus Services	\$22,353,492.00
485991 - Paratransit Transportation Services	\$1,243,638.00
485991 - Special Needs Transportation	\$10,754,626.50
511210 - Publishers, Packaged Computer Software	\$1,306,405.50
541511 - Software Programming Services, Custom Computer	\$816,423.00
541613 - Marketing Consulting Services	\$786,541.50
541930 - Language Translation Services	\$75,000.00
561422 - Telephone Call Centers	\$809,418.00
561621 - Alarm systems sales combined with installation, repair, or monitoring services	\$351,412.50
811192 - Truck and Bus Washes	\$390,000.00
488390 - Drydocks, floating (i.e. routine repair and maintenance of ships)	\$4,511,161.35
488390 - Other Support Activities for Water Transportation	\$17,661,990.15
TOTAL	\$73,190,884.26

WSDOT then identified the number of ready, willing and able DBEs working in each relevant NAICS code as well as the total number of all firms ready, willing and able to perform work in each NAICS code. WSDOT calculated the DBE availability percentage for each relevant NAICS code. To do so, WSDOT divided the number of ready, willing and able DBEs working in each NAICS code by the total number of all firms ready, willing and able to perform work in the NAICS code. Figure 2 presents the DBE availability percentage that WSDOT determined for each relevant NAICS code.

WSDOT used OMWBE's Directory of Certified Firms to identify ready, willing and able DBEs working in relevant NAICS codes.¹ Per 49 CFR § 26.81(a), OMWBE serves as the Unified Certification Program for Washington State and maintains the Directory per 49 CFR § 26.81(g). WSDOT used the Census Bureau's Washington State database to determine the number of all firms ready, willing and able to perform work in relevant NAICS codes.

Figure 2. DBE availability percentage for relevant NAICS codes

NAICS	Total Number of Firms	Number of DBEs	Percent
236220 - Addition, alteration and renovation general contractors, commercial and institutional building	898	21	2.34%
236220 - Bus Shelter Construction	898	21	2.34%
236220 - Commercially Building Construction	898	21	2.34%
336390 - Racks (e.g., bicycle, luggage, ski, tire), automotive, truck, and buses manufacturing	26	0	0.00%
423110 - Sport Utility Vehicle Merchant Wholesaler	107	0	0.00%
423860 - Transportation Equipment and Supplies (except marine pleasure craft, motor vehicles) merchant wholesalers	97	3	3.09%
485113 - Commuter Bus Operations	10	1	10.00%
485210 - Interurban Bus Line Operation	0	0	0.00%
485210 - Rural Bus Services	0	0	0.00%
485991 - Paratransit Transportation Services	85	0	0.00%
485991 - Special Needs Transportation	85	0	0.00%
511210 - Publishers, Packaged Computer Software	334	0	0.00%
541511 - Software Programming Services, Custom Computer	1501	21	1.40%
541613 - Marketing Consulting Services	814	16	1.97%
541930 - Language Translation Services	97	0	0.00%
561422 - Telephone Call Centers	63	0	0.00%
561621 - Alarm systems sales combined with installation, repair, or monitoring services	102	2	1.96%
811192 - Truck and Bus Washes	299	1	0.33%
488390 - Drydocks, floating (i.e. routine repair and maintenance of ships)	47	0	0.00%
488390 - Other Support Activities for Water Transportation	47	0	0.00%

¹ "OMWBE Directory Main." *Washington State Office of Minority and Women's Business Enterprises*. Fri. 3 May. 2013. <<http://www.omwbe.wa.gov/biznetwas/mainmenu.asp>>.

The DBE availability percentages that WSDOT determined for each relevant NAICS code were then multiplied by the dollar projections presented in Figure 1 to project DBE dollar availability for each relevant NAICS code. Figure 3 presents those results.

Figure 3. DBE dollar availability for each relevant NAICS code

NAICS Code	Triennium Projection	%	DBE Availability \$
236220 - Addition, alteration and renovation general contractors, commercial and institutional building	\$4,920,000.00	2.34%	\$115,128.00
236220 - Bus Shelter Construction	\$202,195.50	2.34%	\$4,731.37
236220 - Commercially Building Construction	\$740,569.50	2.34%	\$17,329.33
336390 - Racks (e.g., bicycle, luggage, ski, tire), automotive, truck, and buses manufacturing	\$21,000.00	0.00%	\$0.00
423110 - Sport Utility Vehicle Merchant Wholesaler	\$45,600.00	0.00%	\$0.00
423860 - Transportation Equipment and Supplies (except marine pleasure craft, motor vehicles) merchant wholesalers	\$456,303.00	3.09%	\$14,099.77
485113 - Commuter Bus Operations	\$475,282.50	10.00%	\$4,752.83
485210 - Interurban Bus Line Operation	\$5,269,825.26	0.00%	\$0.00
485210 - Rural Bus Services	\$22,353,492.00	0.00%	\$0.00
485991 - Paratransit Transportation Services	\$1,243,638.00	0.00%	\$0.00
485991 - Special Needs Transportation	\$10,754,626.50	0.00%	\$0.00
511210 - Publishers, Packaged Computer Software	\$1,306,405.50	0.00%	\$0.00
541511 - Software Programming Services, Custom Computer	\$816,423.00	1.40%	\$11,429.92
541613 - Marketing Consulting Services	\$786,541.50	1.97%	\$15,494.87
541930 - Language Translation Services	\$75,000.00	0.00%	\$0.00
561422 - Telephone Call Centers	\$809,418.00	0.00%	\$0.00
561621 - Alarm systems sales combined with installation, repair, or monitoring services	\$351,412.50	1.96%	\$6,887.69
811192 - Truck and Bus Washes	\$390,000.00	0.33%	\$1,287.00
488390 - Drydocks, floating (i.e. routine repair and maintenance of ships)	\$4,511,161.35	0.00%	\$0.00
488390 - Other Support Activities for Water Transportation	\$17,661,990.15	0.00%	\$0.00
TOTAL	\$73,190,884.26	0.26%	\$191,140.78

As shown in Figure 3, the total projected DBE dollar availability for FFYs 2014, 2015, and 2016 is \$191,140.78, or 0.26%, of the FTA financial assistance that WSDOT projects that it will receive during that time (i.e., $\$191,140.78/\$73,190,884.26 = 0.0026$). Thus, WSDOT has determined that its base figure for its overall DBE goal for FFYs 2014, 2015, and 2016 is 0.26%.

Step 2. Determining if an Adjustment is Needed – 49 CFR Part 26.45(d)

After establishing the base figure, WSDOT considered available information to determine whether any adjustment was needed to the base figure to determine its overall DBE goal and to make it as precise as possible. Of the potential factors listed in 49 CFR §26.45(d)(1)(I), the factor most applicable to WSDOT is “Evidence from disparity studies conducted anywhere within your jurisdiction, to the extent it is not already accounted for in your base figure...” In 2012, WSDOT commissioned BBC to conduct a disparity study related to its FHWA- and FTA-funded contracts. Data from the disparity study indicates that the availability of DBEs and minority- and women-owned businesses that could qualify for DBE certification for FTA-assisted construction and engineering contracts that WSDOT awards is 22.1%. However, BBC was only able to evaluate 32 FTA-assisted prime contracts and subcontracts as part of the availability analysis (representing \$1.96 million). The projections presented in Figures 1, 2, and 3 are based on information from all FTA-assisted contracts across two overlapping two-year time periods.

To ensure that WSDOT’s overall DBE goal is as precise as possible, WSDOT proposes to adjust its base figure upward to reflect information from the disparity study related to availability for FTA-assisted contracts. WSDOT adjusted the DBE availability percentages in Figure 3 for the four NAICS codes that were relevant to the FTA-assisted contracts that BBC was able to examine as part of the disparity study:

- 236220 - Addition, alteration and renovation general contractors, commercial and institutional building;
- 236220 - Bus Shelter Construction;
- 236220 - Commercially Building Construction; and
- 488390 - Drydocks, floating (i.e. routine repair and maintenance of ships).

WSDOT adjusted the DBE availability percentages for those NAICS codes up to the 22.1% figure indicated in BBC’s availability analysis. Figure 4 presents the resulting adjusted DBE dollar availability for each relevant NAICS code. As shown in Figure 4, the total adjusted projected DBE dollar availability for FFYs 2014, 2015, and 2016 is \$2,346,589.80, or 3.26% of the FTA financial assistance that WSDOT projects that it will receive during that time (i.e., $\$2,389,365.21/\$73,190,884.26 = 0.0326$). Thus, WSDOT has determined that its overall DBE goal for FFYs 2014, 2015, and 2016 is 3.26%.

Figure 4. Adjusted DBE dollar availability for each relevant NAICS code

236220 - Addition, alteration and renovation general contractors, commercial and institutional building	\$4,920,000.00	22.10%	\$1,087,320.00
236220 - Bus Shelter Construction	\$202,195.50	22.10%	\$44,685.21
236220 - Commercially Building Construction	\$740,569.50	22.10%	\$163,665.86
336390 - Racks (e.g., bicycle, luggage, ski, tire), automotive, truck, and buses manufacturing	\$21,000.00	0.00%	\$0.00
423110 - Sport Utility Vehicle Merchant Wholesaler	\$45,600.00	0.00%	\$0.00
423860 - Transportation Equipment and Supplies (except marine pleasure craft, motor vehicles) merchant wholesalers	\$456,303.00	3.09%	\$14,099.76
485113 - Commuter Bus Operations	\$475,282.50	10.00%	\$47,528.25
485210 - Interurban Bus Line Operation	\$5,269,825.26	0.00%	\$0.00
485210 - Rural Bus Services	\$22,353,492.00	0.00%	\$0.00
485991 - Paratransit Transportation Services	\$1,243,638.00	0.00%	\$0.00
485991 - Special Needs Transportation	\$10,754,626.50	0.00%	\$0.00
511210 - Publishers, Packaged Computer Software	\$1,306,405.50	0.00%	\$0.00
541511 - Software Programming Services, Custom Computer	\$816,423.00	1.40%	\$11,429.92
541613 - Marketing Consulting Services	\$786,541.50	1.97%	\$15,494.87
541930 - Language Translation Services	\$75,000.00	0.00%	\$0.00
561422 - Telephone Call Centers	\$809,418.00	0.00%	\$0.00
561621 - Alarm systems sales combined with installation, repair, or monitoring services	\$351,412.50	1.96%	\$6,887.69
811192 - Truck and Bus Washes	\$390,000.00	0.33%	\$1,287.00
488390 - Drydocks, floating (i.e. routine repair and maintenance of ships)	\$4,511,161.35	22.10%	\$996,966.66
488390 - Other Support Activities for Water Transportation	\$17,661,990.15	0.00%	\$0.00
TOTAL	\$73,190,884.26	3.26%	\$2,389,365.21

Race-Neutral and Race-Conscious Split – 49 CFR Part 26.51 (c)

Per 49 CFR § 26.51(a) “You must meet the maximum feasible portion of your triennium goal by using race-neutral means of facilitating DBE participation.” Guidance from the Office of Small and Disadvantaged Business Utilization (OSDBU) provides that a projected split between race-neutral and race-conscious measures will be more accurate if past participation data from more than one year is used.² To project the race-conscious and race-neutral split, WSDOT evaluated past race-neutral DBE participation on FTA-assisted contracts during FFYs 2010, 2011 and 2012. Figure 5 shows that participation by fiscal year.

Figure 5. Race-neutral DBE participation on FTA-assisted contracts for FFYs 2010, 2011, and 2012

Federal Fiscal Year	Race-Neutral Participation
2010	0.75%
2011	0.00%
2012	0.50%

Based on the information presented in Figure 5, WSDOT has determined that the average race-neutral participation in recent years was 0.42%. Therefore, WSDOT anticipates that it will meet 0.42% of its 3.26% overall DBE goal through the use of race-neutral means (i.e., \$307,401.71 of \$2,389,365.21 through race-neutral means). WSDOT will meet the remaining 2.84% of its overall DBE goal through the use of race-conscious measures (i.e., \$2,081,963.50 of \$2,389,365.21 through race-conscious means).

Race-Neutral Initiatives

WSDOT will meet the maximum feasible portion of its overall DBE goal through the use of the race-neutral measures presented in Figure 6. In addition, WSDOT will maximize outreach efforts to the DBE contracting community and the use of DBE support services to increase the utilization and support of DBEs that participate on upcoming WSDOT projects.

Small Business Program

WSDOT has developed a small business participation plan that USDOT approved on July 13, 2012. The small business participation plan includes the following measures (which will be in place during the time period that the DBE goal will cover):

- Setting aside certain, small public works contracts — that is, construction contracts worth \$35,000 or less — for small business bidding;

² OSDBU Guidance §IV(A)

Figure 6. Race-neutral measures that WSDOT will use to meet its overall DBE goal

Current measures	
Provides plans and specifications to small businesses, including DBEs, statewide	Encourages firms that could potentially qualify for DBE certification to apply
Offers enrollment in business related courses	Trains internal staff on the social and economical importance of supplier diversity, diverse supplier sourcing techniques, proper DBE reporting, and the benefits of certifications
Provides training programs	Offers technical assistance in estimating and bidding, financing and accounting, prompt payment and retainage; and general business practices
Conducts on-site reviews of all DBE contractors performing work on contracts to verify that DBEs are performing commercially useful functions	Offers enrollment in business development programs
Has prompt payment mechanisms that require prime contractors to pay subcontractors within 10 business days of receiving payment from WSDOT	Sponsors outreach at the annual Regional Contracting Forum and other networking events
Operates a DBE fraud and abuse hotline	Works with the Washington State DBE Work Group, which advises WSDOT on DBE issues
Contacts all qualified certified DBE firms in the database, which shows relevant NAICS classifications for engineering contracts	Offers DBE-certified firms individual business counseling services
Operates the Washington Electronic Business Solution program to disseminate notifications of available WSDOT contracts	Conducts outreach events with small businesses statewide
Hosts roundtables for the DBE community	Operates the Small Business Portal, which is available at: www.wsdot.wa.gov/Business/opportunities/
Utilizes a Limited Public Works roster for awarding contracts under \$35,000 to businesses that have less than \$1 million in average gross receipts	Contracts with the Seattle Business Assistance Center to assist small, minority-owned, and women-owned businesses in obtaining certification and with bidding on transportation projects
Tracks whether there are adequate contracts of a reasonable size for small businesses	Hosts pre-bid meetings and site walkthroughs
Maintains a bidder's list	Offers DBE training and one-on-one consulting sessions on construction and consulting-related issues

- Requiring prime contractors to submit small business participation plans as part of bidding on design-build projects; and
- Applying aspirational small business goals on FTA-funded contracts to which contract-specific DBE goals do not apply, including requiring prime contractors to submit small business participation plans.

Support Services

WSDOT provides the following supportive services to DBEs:

- Immediate and long-term business management, record keeping, financial and accounting capabilities;

- Long-term development assistance to increase opportunities to participate in more varied and significant work, and to achieve eventual self-sufficiency;
- Programs on contracting procedures and specific contract opportunities;
- Assistance in obtaining bonding or financing;
- Assistance to start-up firms, particularly in fields with historically low DBE participation;
- Identification of potential highway-related DBEs and prequalification assistance; and
- In an effort to increase awareness of the DBE Supportive Services program, WSDOT has developed a DBE Supportive Services hotline (888) 259-9143, email address dbess@wsdot.wa.gov, and website: www.wsdot.wa.gov/EqualOpportunity/DBE.htm.

Outreach and Networking

WSDOT engages in a number of outreach efforts to minority and women's organizations to enhance DBE opportunities in Department projects. Those efforts include:

- Sponsorship of the annual Regional Contracting Forum held in Seattle, Washington, in partnership with state, local and federal agencies. Last year's event attracted approximately 1,500 individuals.
- Sponsorship of the annual Business After Hours event in partnership with Sound Transit and the Port of Seattle.
- WSDOT works with organizations such as the Northwest Minority Supplier Diversity Council, Women in Construction, USDOT's Small Business Transportation Resource Center, the Women's Transportation Seminar, Seattle Business Assistance Center, African American Partners for Prosperity, the Office of Minority and Women's Business Enterprises and other groups to promote the DBE Program.
- WSDOT has established a Washington State DBE Work Group comprised of WSDOT divisions and local agencies, among others, that will advise WSDOT on DBE issues, included goal setting, outreach, and training.
- In 2006, WSDOT established a Goal Monitoring Committee, which is comprised of staff from Headquarter Construction, Highways and Local Programs, Public Transportation, Consulting Services and Washington State Ferries that meet on a bi-monthly basis to address the DBE program and goal setting.

Complaint Procedures

- WSDOT has implemented procedures to process complaints of discrimination in the operation of the DBE Program and against contractors receiving WSDOT contracts. Those procedures will ensure prompt, uniform and fair responses to allegations of unlawful conduct so that DBEs, non-DBEs and interested persons can have confidence in the integrity of WSDOT's operations.
- WSDOT has implemented the Fraud Hotline which is for reporting fraud and abuse in the DBE Program. The Fraud Hotline is available via telephone toll free at (877) 856-3770 or via email at fraudhotline@wsdot.wa.gov.

Prompt Payment

WSDOT continues to enforce its prompt payment provisions and processes. It impresses upon its personnel and prime contractors the necessity and importance of meeting those requirements. That objective is accomplished via WSDOT-sponsored training for internal staff as well as external contractors, which includes a portion on prompt payment.

Public Participation

Public participation will be a key component of WSDOT's process for setting its overall DBE goal. WSDOT will make the following efforts to engage the public as part of the goal-setting process.

Public Notice

WSDOT will publish a public notice announcing its proposed overall DBE goal and rationale for the goal. The notice will state that WSDOT will accept comments on its overall DBE goal for 45 days, and it will provide physical addresses and e-mail addresses where the public can send any comments. The public notice will appear for 30 days at the WSDOT Office of Equal Opportunity's principal office (310 Maple Park Ave. SE, Olympia, WA 98504). The notice will also be posted on WSDOT's website and will be published in the Seattle Daily Journal of Commerce. WSDOT will also e-mail the public notice to all registered DBEs and prime contractors.

Consultation with Organizations

WSDOT will consult individually with several contracting groups, community organizations, and other organizations that have information about local marketplace conditions for minority- and women-owned businesses. During those meetings, WSDOT will discuss its proposed overall DBE goal and rationale for the goal and will also solicit comments about the goal from meeting participants. At a minimum, WSDOT will attempt to consult with the following organizations:

- American Council of Engineering Companies (ACEC) – Washington;
- Associated General Contractors (AGC) of Washington;

- African-American, Hispanic, Asian, and Native American (AHANA) of Spokane;
- Council for Tribal Employment Rights;
- Inland Northwest Associated General Contractors;
- National Association of Minority Contractors (NAMC) – Washington;
- National Association of Women in Construction (NAWIC) – Tri Cities;
- Northwest Minority Supplier Development Council (NMSDC);
- Seattle Building & Construction Trades Council;
- Tabor 100; and
- Washington Asphalt Pavement Association.

Upcoming Projects

OSDBU Guidance states “Do not make adjustments based solely on changes in the amount of federal assistance you expect to receive”. WSDOT did not base its goal-setting solely on changes in the amount of federal assistance that it expects to receive in FFYs 2014, 2015, and 2016. However, WSDOT evaluated information from upcoming projects as part of the process of setting its overall DBE goal.

Reevaluation

If, at any time within the triennium, additional FTA financially-assisted projects in which DBEs can participate are funded, WSDOT will reevaluate the triennium DBE goal.

Summary

Pursuant to the requirements of 49 CFR§ 26.45(a)(2), WSDOT submits this proposed triennium DBE Goal to FTA for review and approval. WSDOT followed the requirements of 49 CFR Part 26 along with OSDBU Guidance and FTA Regional Assistance in setting its overall DBE goal. WSDOT’s overall DBE Goal of 3.26% for FFYs 2014, 2015, and 2016 is based on the availability of ready, willing and able DBEs to participate in FTA-assisted contracts. WSDOT anticipates race-neutral participation of 0.42% and race-conscious participation of 2.84% to meet its overall DBE goal.